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FISCAL IMPACT STATEMENT

LS 7067

BILL NUMBER: HB 1249

NOTE PREPARED: Jan 11, 2010

BILL AMENDED:

SUBJECT: Elimination of Township Government.

FIRST AUTHOR: Rep. DeLaney

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Abolish Township Government: It provides that all township governments are abolished on January 1, 2013, and all township functions are transferred to the county.

It provides that except as specifically provided by law:

- (1) the county executive has the powers and duties of the township trustee;
- (2) the county legislative body has the legislative powers and duties of the township board; and
- (3) the county fiscal body has the fiscal powers and duties of the township board.

Township Assistance: It provides for an elected county advocate for the poor to administer township assistance in each county beginning January 1, 2013. It provides for a transition board in each county. It requires the transition board to adopt a transition plan for the provision of township assistance in the county. It requires that the transition plan must provide for the provision of township assistance on a countywide basis and reasonable levels of accessibility throughout the county.

Fire Protection: It specifies that beginning January 1, 2013, the county is responsible for providing fire protection formerly provided by the township. It establishes a county firefighting fund, and establishes a county cumulative building and equipment fund for firefighting.

It provides that the remaining township fire departments in Marion County are consolidated into the Indianapolis Fire Department on January 1, 2013.

It provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, personnel, records, rights, contracts, and indebtedness.

Marion County Small Claims Courts: In Marion County, it transfers responsibilities of township trustees and township boards concerning township small claims courts located in Marion County to the:

- (1) mayor of the consolidated city;
- (2) city-county council of the consolidated city; and
- (3) clerk of the circuit court of the county containing the consolidated city.

Small Claims Court Constable: It abolishes the office of small claims court constable, and it specifies that on January 1, 2013, personnel provided by the county shall perform the duties formerly performed by the constables.

School Township: It requires a school township to reorganize not later than July 1, 2012. It requires the State Board of Education to develop a reorganization plan for a school township that does not develop a reorganization plan.

Excess Balances: It requires the Department of Local Government Finance (DLGF) to determine whether the balance in each township fund (other than a debt service fund or cumulative fund) is in excess of the amount needed by the township to carry out the purposes of the fund. It specifies the factors to be considered by the DLGF in making the determination. It requires a township to transfer any excess amounts to the county treasurer. It specifies that the excess amounts must be used as follows:

- (1) 25% to provide property tax credits at a uniform countywide percentage.
- (2) 25% for deposit in a special fund or account to be used upon appropriation by the county fiscal body for programs designed to alleviate poverty in the county.
- (3) 25% for transfer to Indiana University-Northwest to be used by Indiana University-Northwest to make grants to alleviate urban poverty or to conduct teaching or academic research concerning urban poverty.
- (4) 25% for transfer to Indiana State University to be used by Indiana State University to make grants to alleviate rural poverty or to conduct teaching or academic research concerning rural poverty.

Effective Date: Upon passage; July 1, 2010; January 1, 2012; January 1, 2013.

Explanation of State Expenditures: *Department of Local Government Finance:* DLGF is to adjust the maximum permissible property tax levies and property tax rates of units to reflect transfers of duties and responsibilities and to review balances in township funds to determine if an excess balance exists and to determine the amounts to transfer from the township to the county. The bill's requirements are within the DLGF's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

The State Board of Education: Costs will increase for the State Board of Education to develop a reorganization plan for a school township that does not develop its own plan. The number of school townships that will fail to adopt the plan is unknown.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill has indeterminate fiscal impact on county government. The

bill abolishes township government and, on January 1, 2013, transfers the duties and powers for the township government to the county. The bill does not delete or diminish the responsibilities and duties currently assigned in statute to township trustees, township boards, township small claims courts, or other entities, but rather transfers the responsibilities to the county. If a county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity more efficiently, cost savings will result.

Background & Additional Information - Abolishing Townships: Township government will be dissolved by the bill, and its duties and powers are conveyed to the county beginning on January 1, 2013. However, the township retains its geographical boundaries and name. The functions, duties and responsibilities of the township trustees transfer to the township executive, of the township board transfer to the county council, unless otherwise specified, and of the township assessor, if any, transfer to the county assessor. The assets, property rights, equipment, records, personnel, and contracts are to transfer to the county. A township is not permitted to enter into a contract that extends beyond December 31, 2011, unless it is approved by the county fiscal body. The following actions are to occur to abolish township government.

Township Government: The number of townships per county varies between 4 and 21, with the largest number of counties having 12 townships. The following table estimates the number of elected township officials in the state of Indiana.

Number of Townships and Elected Officials in Indiana			
	In Marion County	In Other Counties	Statewide
Townships	9	999	
<i>Officials per Township:</i>			
Board Members	7	3	
Trustees	1	1	
Small Claims Court Judge (Office is not eliminated under the bill)	1	0	
Small Claims Court Constable	<u>1</u>	<u>0</u>	
Total	90	3,996	
Township Assessors (Retained by referendum in 2008)	<u>0</u>	<u>13</u>	
Grand Total	90	4,009	4,099

Currently, the township board is the legislative body of the township, and the township trustee is the township executive. The legislative body of a township fixes the salaries for the members of the township board. There is no single, statewide repository of township board member or township trustee salaries. A review of four townships in counties outside of Marion County and eight of the nine townships in Marion County for which information is available showed that salaries ranged between \$500 and \$21,369 for board members and that township trustee salaries ranged between \$8,000 and \$81,120. Using the low range and median (rather than the maximum), the following shows the range of potential statewide savings from elimination of township board members and trustees, assuming that the functions of these township elected

officials would not be compensated when the duties transfer to county government. [Note: The average of the Marion County townships was used to estimate the median.]

Salary per Board Member	Statewide Savings	Salary per Trustee	Statewide Savings
Low Range -\$500	\$1,530,000	Low Range - \$8,000	\$8,064,000
Median - \$900	\$2,754,000	Median - \$18,750	\$18,900,000

While savings will accrue to township residents, the county fiscal body, which fixes the compensation of officers, may increase compensation for county legislative and fiscal bodies or county executives that undertake additional responsibilities from the township boards and trustees. Also, the bill establishes several new positions in certain circumstances. Any changes in county officer compensation or additional salary expense would be the decision of the county fiscal body. Statewide, the 2009 township general fund budget appropriations for 974 townships reporting were \$65.9 M. It is assumed that most of this cost will transfer to the county government for operation of the duties and powers of township government, unless operating or management efficiencies can be recognized.

Township Assistance: Responsibilities for township assistance and distribution of medicines and vaccines transfer to the county. A county advocate for the poor will be elected by the voters of each county and is to have the same privileges and immunities and the same powers in administration of township assistance as the township trustee, including reporting requirements, and the same standards and requirements for recipients apply to township assistance administered by the county. The advocate may appoint one chief deputy and any number of other full- or part-time employees. A county advocate for the poor will administer township assistance and may provide temporary cash assistance of \$500 per year for an individual or \$1,000 per year for a family. The county advocate for the poor will keep a record of all aid provided including the name of the recipient, the amount provided to the recipient, and a detailed account of the advocate's determination concerning cash assistance. Any application for township assistance for which a final decision has not been entered by December 31, 2012, will be treated as a new application. Any application granted but not disbursed prior to January 1, 2013, is to be disbursed and administered by the county.

Township Assistance Transition Board: A township assistance transition board is to adopt a plan for the provision of township assistance on a countywide basis. The board members receive no compensation and the board must hold one public meeting. The board's voting membership includes members of the county executive and the members of the county fiscal body; the nonvoting members include the trustee of each township, two citizens not employed by government or a human services agency, one local representative of a national nonprofit, and a representative of a nonprofit charitable community foundation, if any in the county.

Other Services: A county officer appointed by the county executive will serve on the weed control board. For detrimental plants, the county official designated by the county executive is to perform the duties of the township trustee and the county legislative body will act to borrow money to meet emergency needs. Any fines collected for a Class C infraction concerning detrimental plants are to be placed in the appropriate county fund. Duties and obligations of the township trustee for cutting live fences, partition fences, and parks and recreation transfer to the person designated by the county executive. The responsibilities and obligations of the township concerning public libraries, library districts, or contracts for library services are terminated and assumed by the county, and the county legislative body will make an appointment to the public library board. The county executive will make certain appointments to regional transportation authorities as needed.

Property and Lands: A municipality will have right of first refusal for any buildings or land belonging to a dissolved township that is within the municipality. If the municipality refuses the buildings or land, it transfers to the county.

Fire Department Consolidation: The county executive is responsible for providing fire protection in the county, but is not responsible for fire protection in an area served by a municipal fire department, fire protection district, or fire protection territory. The county fire department will include the fire departments of the townships and the fire protection districts.

Assignment of Property and Debt: The consolidated fire department is to assume or receive the personnel, agreements with labor organizations, indebtedness related to fire protection services, and merit board duties. The consolidated city is to assume the powers, duties, agreements, and liabilities of bonds or other indebtedness. Any property, equipment, records, rights, and contracts are to be conveyed to the consolidated fire department.

Pensions: After a consolidation, members of the 1937 Fund are to remain members of the 1937 Fund and members of the 1977 Fund are to remain members of the 1977 Fund. The 1937 Firefighters' Pension Fund and the 1977 Police Officers' and Firefighters' Pension and Disability Fund local boards are dissolved on January 1, 2013, and their powers, duties, and responsibilities transfer to the county's local boards.

Fire Protection in a Consolidated City: In a consolidated city, an unconsolidated township fire department is to consolidate into the fire department of the consolidated city without action by the executive and legislative body of the township.

Fire Protection District: A fire protection district is to consist of all the unincorporated area that is located in the township, but not in an existing fire protection district. A municipality is included in the fire protection district only if it consents by ordinance or a majority of the freeholders petition to be included. The fire protection districts may merge or participate in a fire protection territory. The county legislative body appoints a fire trustee from among names submitted by the Indiana Volunteer Firefighters Association to a four-year term to manage the operations of the fire protection district. The fire trustee must be a resident of the fire protection district, and may not be an employee of the district or a relative of a member of the county fiscal body or county legislative body. The county fiscal body is to set the salary of the fire trustee by ordinance, and the county legislative body is the legislative body of the fire protection district.

Assessor: Elimination of township government does not affect any assessment, assessment appeal, or other official action of a township assessor made prior to January 1, 2013. Also, the act does not affect pending actions or rights of parties with a legal claim against a township assessor.

School Township: A school township will incur additional costs to hold public hearings to discuss methods of reorganizing and develop a plan as required under current state statute concerning organization of school corporations. [There are three school townships in Indiana.]

Marion County Small Claims Courts: The judges of the small claims court will continue to be elected to a four-year term of office. The county executive will provide courtrooms and offices, and furnish supplies, furniture, and equipment and provide maintenance and upkeep.

Judge Salaries: Judge salaries are to be set by the city-county council, and paid by the county. The county fiscal body will set the salary of as many small claims court clerks as are necessary to operate

efficiently and adequately serve the citizens, with the approval of the city-county council. Current law and the bill set a floor of \$5,600 for clerk salaries.

Constables: The office of constable of the small claims court is abolished on January 1, 2013. The functions, duties, and responsibilities of the small claims court constables will transfer to the executive of a consolidated city. On January 1, 2013, all assets, debts, property rights, equipment, records, and contracts will transfer to the executive. The executive's designee, six months prior to the end of the constable's term of office, is to begin the transition process and report to the executive on progress. The county is to provide adequate personnel to act as bailiff of the court, serve processes, carry out orders of the court, and prepare and mail all registered or certified service. Constables are currently paid from the service of process fee, which is \$13, whether delivered in person or by certified mail.

Explanation of Local Revenues: *Township General Fund Levies:* For the 969 townships levying a general fund property tax in 2009, the total levy was \$28.2 M. Any balance in a township general fund, other than funds for fire protection, transfers to the county executive on January 1, 2013.

County Assistance Fund: The county is to estimate the total cost of township assistance in the county for the following year and adopt a uniform county tax rate to meet the estimated costs. The taxes levied for township assistance are to be placed in the fund, and the money in the fund is to be used to pay the expenses and obligations set forth in the annual budget. Drugs and vaccines provided to indigents are to be paid through the county's township assistance fund. Money in the fund at the end of the year does not revert to the county general fund. [In CY 2009, township assistance budget appropriations totaled \$69.7 M and levies totaled \$43.9 M statewide.]

Cemetery Funds: The cemetery duties imposed on the township trustee will transfer to the person designated by the county executive, and a county legislative body may approve purchases. The township cemetery fund transfers to the county fund established for that purpose and that it raised through a cemetery tax throughout the county.

Excess Fund Balance: The township executive is to transfer any excess fund balance in a township fund (other than a debt service fund or cumulative fund) as determined by the DLGF to the county treasurer. The county treasurer is to apply 25% of the transferred amount to provide property tax credits for persons paying property taxes in the county, place 25% in a special fund or account to be appropriated by the county fiscal body for programs designed to alleviate poverty, and transfer 25% each to Indiana University-Northwest and Indiana State University to make grants and conduct teaching or academic research concerning rural and urban poverty. An excess fund balance transfer does not reduce the maximum permissible levy for the county or township from which the transfer was made.

Debt Service Funds: Any balance remaining in a debt service fund after the county has paid the indebtedness or lease rental for which the fund was established transfers to the county general fund.

Indebtedness: Indebtedness and lease obligations incurred by a township government are to be defeased, paid, or refunded by the county which may levy a property tax only in the area of the township. However, the county may not assume all or part of township indebtedness that would exceed the limitations on the amount of indebtedness that the county may incur, and the township would continue to exist to levy the property taxes necessary to pay the indebtedness.

Cumulative Fire Fund Levies: Any balance in the township cumulative fire fund is to transfer to the county

and must be used to pay for fire-related debt or lease rental obligations due after December 31, 2012. Cash balances remaining after the debt and lease payments are made would be transferred to the county's cumulative fire fund.

Firefighting Maximum Levies: Under the bill, the 2013 county firefighting maximum levy would equal the 2012 firefighting maximum levies for all of the townships and fire territories and districts in the county, multiplied by the assessed value growth factor.

Distributive Shares: The bill redistributes shares of county option income tax from Marion County townships to the city-county government and any distributive shares of state or local income or excise taxes will transfer to the county.

Marion County Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund, small claims courts account. After December 31, 2011, 40% of the court administration fees are to be used for the operation of small claims courts. In 2008, Marion County small claims courts generated a total of \$5.07 M, including \$1.6 M in state funds, \$101,000 in county funds, and \$3.33 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2008, Marion County small claims courts received \$597,433 for serving process by certified mail and almost \$1.5 M for service of process by personal service. These amounts are to be paid directly to the constables.

State Agencies Affected: OMB; SBOA; DLGF; State Board of Education.

Local Agencies Affected: Townships; Counties.

Information Sources: Township Trustee's Budget Estimate for CY 2010, Bloomfield Township, LaGrange County; Township Trustee's Budget Estimate for CY 2010, Indian Creek Township, Monroe County; Township Trustee's Budget Estimate for CY 2008, North Township, Lake County; Trustee's Budget Estimate for CY 2007, Union Township, Boone County; Trustee's Budget Estimate for CY 2009, Decatur, Franklin, Lawrence, Perry, Pike, Warren, Washington, and Wayne Townships, Marion County.

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